STATE OF CALIFORNIA

DEPARTMENT OF MANAGED HEALTH CARE

OFFICE OF HEALTH PLAN OVERSIGHT

DIVISION OF PLAN SURVEYS

FINAL REPORT OF THE ROUTINE DENTAL SURVEY

CALIFORNIA BENEFITS DENTAL PLAN

October 11, 2001

Final Report of the Routine Dental Survey

California Benefits Dental Plan

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SECTION I. INTRODUCTION

The Knox-Keene Health Care Service Plan Act of 1975 (the "Act"), Section 1380, requires the Department of Managed Health Care (the "Department") to conduct a dental survey of each licensed health care service plan at least once every three (3) years. The dental survey is a comprehensive evaluation of the Plan's compliance with the Knox-Keene Act. The subjects covered in the survey are listed in Health and Safety Code Section 1380 and in Title 28 of the California Code of Regulations, Section 1300.80.[1] Generally, the subjects of the survey fall into the following categories:

- Plan Organization
- Quality Assurance
- Accessibility of Services
- Continuity of Care
- Grievance System

This Final Report summarizes the findings of the dental survey of California Benefits Dental Plan (the "Plan"). The Plan submitted pre-survey documents to the Department in February 2001. The on-site review was conducted of the Plan on April 16-20 and May 23, 2001 and an exit conference on August 6, 2001.

The Preliminary Report of the survey findings was sent to the Plan on August 7, 2001. All deficiencies cited in the Preliminary Report required follow-up action by the Plan. The Plan was required to submit a response to the Preliminary Report within 45 days of receipt of the Preliminary Report and submitted a timely response on September 25, 2001.

The Final Report contains the survey findings as they were reported in the Preliminary Report, a summary of the Plan's Response and the Department's determination concerning the adequacy of the Plan's response. The Plan is required to file any modification to the Exhibits of the Plan's licensing application as a result of the Plan's Corrective Action Plans as an Amendment with the Department.

Any member of the public wanting to read the Plan's entire response and view the Exhibits attached to it may do so by visiting the Department's office in Sacramento, California after October 21, 2001. The Department will also prepare a Summary Report of the Final Report that shall be available to the public at the same time as the Final Report.

One copy of the Summary Report is also available free of charge to the public by mail. Additional copies of the Summary Report and copies of the entire Final Report and the Plan's response can be obtained from the Department at cost. Final Reports are available on the Department's web-site: www.dmhc.ca.gov.

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[1] References throughout this report to "Section ____" are to sections of the Knox-Keene Health Care Service Plan Act of 1975, as Amended ("the Act"), codified at Health and Safety Code Section 1340 *et seq*. References to "Rule ____" are to the regulations promulgated pursuant to the Act, found at subchapter 5.5 of Chapter 3 of Title 28 of the California Code of Regulations, beginning at Section 1300.43 and transferred to the Department of Managed Health Care pursuant to Section 1341.14.

The Plan may file an addendum to its response at anytime after the Final Report is issued to the public. Copies of the addendum also are available from the Department at cost. Persons wanting copies of any addenda filed by the Plan should specifically request the addenda in addition to the Plan's response.

Pursuant to Health and Safety Code Section 1380(i)(2), the Department will conduct a Follow-up Review of the Plan within 18 months of the date of the Final Report to determine whether deficiencies identified by the Department have been corrected. Please note that the Plan's failure to correct deficiencies identified in the Final Report may be grounds for disciplinary action as provided by Health & Safety Code Section 1380(i)(1).

Finally, Preliminary and Final Reports are "deficiency" reports; that is, the reports focus on deficiencies found during the dental survey. Only specific activities found by the Department to be in need of improvement are included in the report. Omission from the report of other areas of the Plan's performance does not necessarily mean that the Plan is in compliance with the Knox-Keene Act. The Department may not have surveyed these activities or may not have obtained sufficient information to form a conclusion about the Plan's performance.

Scope of Survey

At the Plan's administrative offices, the Department reviewed two complaints filed by Plan enrollees at the Department; 29 grievances and appeals filed at the Plan; the Plan's grievance and appeal procedures; information from the Plan's quality assurance system, including minutes of the committees responsible for Plan quality management activities; provider credentialing files; specialty referral requests; and Plan information for providers describing Plan policies and benefits.[2] The Department also conducted interviews with staff responsible for these areas.

The Department also reviewed charts of enrollees who had received general dental care at two of the Plan's participating general dental offices; and charts of enrollees who had received orthodontic services at five of the Plan's participating orthodontic offices. The Department reviewed a total of 15 patient charts for the two general practice offices, and 12 patient charts for the five orthodontic offices. Further, the Department reviewed grievances that had been filed regarding the two general dental offices.

[2] Practice and patient identifying information for the cases mentioned in this report are set forth in the Appendix to this report for the Plan's review, which will be held confidential pursuant to Section 1380(d).

SECTION II. OVERVIEW OF ORGANIZATION

The following additional background information describes the Plan:

Date Plan Licensed: July 30, 1992

Type of Plan: Specialized Dental Plan

Provider Network: The Plan has contracting general and specialty dental providers throughout Southern California. The Plan's dental provider network is comprised of approximately 469 general dental offices, 170 orthodontic offices, and other specialists including 33 pedodontic, 48 endodontic, 94 periodontic, and 86 oral surgery offices.

The Plan's service area consists of Los Angeles County, Orange County, Riverside County, San Bernardino County, San Diego County and Ventura County.

The Plan's general dental providers are paid a capitation fee plus a patient co-payment. The Plan's orthodontic specialty providers are paid by the patient a fee set by the Plan. Other specialists are paid a fee-for-service plus a patient co-payment.

Referral requests from general practice dentists are reviewed by the Dental Director and, if approved, the patient, general practice and specialty offices are notified of the approval and the patient co-payment. If the referral is denied, the Dental Director notifies the patient and general practice of the reason for denial. All referrals are reviewed within five days.

Plan Enrollment: As of February 20, 2001, the Plan had 30,082 members. All of these members were commercial members, and the Dental Plan had no Medicare or Medi-Cal enrollment as of that date.

SECTION III. SUMMARY OF DEFICIENCIES

The Department of Managed Health Care survey of California Benefits Dental Plan (the "Plan") has found the following deficiencies which the Plan is required to correct:

Plan Organization

Deficiency 1: The Plan's Board of Directors did not conduct adequate oversight of the Plan's quality assurance activities.

Deficiency 2: The Plan's Quality Assurance Committee did not meet quarterly to oversee the Plan's quality assurance program.

Deficiency 3: The Plan lacked arrangements with an orthodontic consultant capable of rendering a decision concerning the audit program for the Plan's orthodontic offices or enrollee grievances regarding orthodontic care.

Deficiency 4: The Plan failed to demonstrate the Plan had implemented reasonable procedures to monitor utilization for the purpose of assuring that contracts with providers, including provider compensation, are fair and reasonable and consistent with Knox-Keene Act objectives.

Quality Assurance

Deficiency 5: The Plan's quality assurance program did not ensure the consistent identification and correction of quality of care issues at the Plan's general dental offices because of the following:

a. The Plan's selection of patient charts to audit failed to provide a comprehensive sample to adequately evaluate the quality of care.

b. The Plan's audits of its general dental practices failed to detect deficiencies in the quality of care.

c. The Plan's communication with its providers did not accurately reflect the findings of the Plan auditor.

Deficiency 6: The Plan's quality assurance program did not ensure the consistent identification and correction of quality of care issues at the Plan's orthodontic offices because of the following:

a. The Plan's method of selecting patient charts for audits of its orthodontic offices was not adequate.

b. The Plan's audits of its orthodontic practices failed to detect deficiencies in the quality of care.

Deficiency 7: The Plan's quality assurance program did not demonstrate adequate evidence of credentialing and recredentialing of providers.

Accessibility of Services

Deficiency 8: The Plan's access monitoring system is not sufficiently sensitive to detect practices that restrict access.

Grievance System

Deficiency 9: The Plan did not adequately and consistently evaluate grievances.

Deficiency 10: The Plan failed to evaluate grievances, complaints and inquiries for evidence of systemic quality of care and access concerns.

SECTION IV. SUMMARY OF PLAN'S EFFORTS TO CORRECT DEFICIENCIES

Upon reviewing the Plan's response to the Preliminary Report, the Department found that the Plan had not fully corrected the deficiencies cited in the Report.

For the Deficiencies cited in the Preliminary Report, the Department found that although the Plan had initiated corrective actions, full implementation of those actions, and assessment of the effectiveness, will require more than forty-five (45) days. Therefore, at the time of the Follow-up Review, the Department will review the Plan's activities to assess the efficacy of the Corrective Action Plans in remedying issues of non-compliance.

SECTION V. DISCUSSION OF DEFICIENCIES, FINDINGS, AND CORRECTIVE ACTIONS

A. Plan Organization

Deficiency 1: The Plan's Board of Directors did not conduct adequate oversight of the Plan's quality assurance activities.

Rule 1300.70(b)(2)(C) requires, in part, that the plan's governing body, its Quality Assurance (QA) committee, if any, and any internal or contracting providers to whom QA responsibilities have been delegated, shall each meet on a quarterly basis, or more frequently if problems have been identified, to oversee their respective QA program responsibilities.

The Plan was acquired in November 2000 by a national corporation whose corporate headquarters is located outside of the State of California. Since that time, there have been no meetings of the Plan's Board of Directors. The Board had adopted many resolutions by written consent in lieu of a meeting. These resolutions involve matters such as election of officers, the naming of officers who can complete banking transactions, retirement plan benefits, etc. The Board has not met quarterly to discuss the quality assurance program, and has not approved the Plan's quality assurance program.

Corrective Action 1:

The Plan shall submit evidence that the Plan's Board of Directors meets at least on a quarterly basis and has implemented reasonable procedures for oversight and approval of the Plan's quality assurance activities.

Plan's Compliance Effort 1:

The Plan will conduct Board Meetings on a quarterly basis as stated in Rule 1300.72 (b)(2)(C). The Plan's prior Board approved the changes on the Quality Assurance Program and audit tool prior to the acquisition by GE Financial Assurance. The Plan has not changed the Quality Assurance Program since the acquisition, November 1, 2000 and therefore, has not filed a revised Quality Assurance Program. The Plan will maintain copies of the Quarterly Board Minutes at the Plan.

Department's Finding Concerning Plan's Compliance Effort 1:

The Plan's response is not adequate to remedy the deficiency. During the data collection phase of the survey, the Department reviewed minutes of Board Meetings of the GE Financial Assurance board. The Board did not review nor discuss the Plan's quality assurance activities. The Plan, in its response did not provide a description of methods, procedures, or policies, to show how the GE Financial Assurance Board of Directors will conduct oversight of the Plan's quality assurance activities. The Plan, in its response is proposing substantial changes to its quality assurance program. A method to obtain Board approval for the revised QA program should be in place.

The Plan's response also states that it will conduct Board meetings on a quarterly basis in the future.

The Plan's proposed Corrective Action Plan (CAP) will take longer than 45 days to implement. The Department will conduct a Follow-Up Review within 18 months of the date of the Final Report to determine whether the deficiency identified by the Department has been corrected.

Deficiency 2: The Plan's Quality Assurance Committee did not meet quarterly to oversee the Plan's quality assurance program.

Rule 1300.70(b)(2)(C), stated above.

The Plan's Quality Assurance Committee is charged with the responsibility of reviewing grievances and complaints and peer review related activities. There are no separate grievance or peer review committees or subcommittees. The members of the Plan's Quality Assurance Committee are its Chief Executive Officer, the Dental Director, a Member Services Representative, and one general dentist.

The Department requested minutes of the Plan's Quality Assurance Committee for the past twelve months. The Plan provided the Department with minutes from meetings held on March 31 and June 29, 2000. Thus, the Department's review found the Plan's Quality Assurance Committee failed to meet quarterly as required. Since the Quality Assurance Committee did not meet quarterly, timely review of grievances and complaints was not possible.

Further, the composition of the Quality Assurance Committee was inadequate and would not lead to an independent review of cases. The Department found that the four people who would review a case included two Plan staff responsible for the initial review of the case, the Chief Executive Officer (CEO) who is not a trained dental professional, and a dentist. Department review of the minutes of the meeting held on June 29, 2000 found that the only two people who attended the meeting, the Dental Director and the Plan's Member Services Representative.

Corrective Action 2:

The Plan shall submit evidence that the Quality Assurance Committee meets at least on a quarterly basis and that members of this committee have the background, qualifications and experience necessary to conduct oversight activities of Plan's Quality Assurance Program.

Plan's Compliance Effort 2:

The Plan's Quality Assurance Committee meetings will be conducted at the Plan on the following dates for the remainder of this year:

September 28, 2001
December 21, 2001

The Plan will then continue to conduct Quality Assurance and Public Policy Meetings on a quarterly basis.

The Plan's Quality Assurance Committee will consist of the following members:

Chief Executive Officer
Dental Director
One Member Services Representative
One General Dentist

Department's Finding Concerning Plan's Compliance Effort 2:

The Plan's Corrective Action Plan (CAP) is not adequate to remedy the deficiency within 45 days. Therefore, the Department will verify at the 18 month Follow-Up Review that the Plan's Quality Assurance Committee has met quarterly.

Deficiency 3: The Plan lacked arrangements with an orthodontic consultant capable of rendering a decision concerning the audit program for the Plan's orthodontic offices or enrollee grievances regarding orthodontic care.

Rule 1300.67.3(a)(2) requires staffing in medical and other health services, and in fiscal and administrative services sufficient to result in the effective conduct of the plan's business.

Rule 1300.70(b)(2)(E) requires that physician, dentist, optometrist, psychologist or other appropriate licensed professional participation in QA activity must be adequate to monitor the full scope of clinical services rendered, resolve problems and ensure that corrective action is taken when indicated. An appropriate range of specialist providers shall also be involved.

The Plan did not have the capacity to conduct a quality assurance program for orthodontic services. The Plan has contracted with a group of independent auditors to audit its orthodontic practices. The coordinator of the independent audit group, an orthodontist, stated that he was available to the Plan for consultations, grievances, and credentialing, although in the two years he has been under contract with the Plan he has never been called upon to perform any of those functions.

The Plan's Vice President of Operations, who is not a dentist, reviewed the results of the audits of orthodontic practices. Furthermore, the Plan's Quality Assurance Committee, which functions as the Plan's only peer review body, did not include an orthodontist.

Corrective Action 3:

The Plan shall submit evidence of an agreement with an independent orthodontic auditor licensed in California to participate in the Plan's orthodontic quality assurance program including, but not limited to, reviewing quality of care issues concerning the quality of orthodontic services. The Plan's submission shall include a revised organizational chart which shows the position of the orthodontic auditor.

Plan's Compliance Effort 3:

The Plan is in the process of adding a California-licensed Orthodontist to participate in the Plan's Orthodontic Quality Assurance Program, whose duties include but are not limited to, review of quality of care issues regarding orthodontic services. The Plan provided an organization chart, which includes the Orthodontic Reviewer position. The Orthodontic Reviewer will be in place by the 4th Quarter 2001 Quality Assurance Committee Meeting.

Department's Finding Concerning Plan's Compliance Effort 3:

The Plan's proposed CAP is not adequate to remedy the deficiency. The Plan did not submit evidence of an agreement with an independent orthodontic auditor. The Plan's response does state, however, that it is in the process of adding an orthodontist to the Quality Assurance Program. This portion of the Plan's proposed corrective action will take longer than 45 days to implement. The Department will verify at the 18-month Follow-Up Review that the Plan has arrangements with an orthodontic consultant by reviewing evidence such as, but not limited to, the orthodontists' licensing and certification file, Curriculum Vitae and provider contract and minutes from the Quality Assurance/Peer Review committee.

Deficiency 4: The Plan failed to demonstrate the Plan had implemented reasonable procedures to monitor utilization for the purpose of assuring that contracts with providers, including provider compensation, are fair and reasonable.

Section 1370 requires, in part, that every plan shall establish procedures in accordance with department regulations for continuously reviewing the quality of care, performance of medical personnel, utilization of services and facilities, and costs.

Rule 1300.70(c) requires, in part, that in addition to the internal quality of care review system, a plan shall design and implement reasonable procedures for continuously reviewing the performance of health care personnel, and the utilization of services and facilities, and cost.

The Plan had determined what is regarded as a fair and reasonable provider compensation which was based on income per hour of chair time. The Plan proposed to estimate provider compensation per hour of chair time from encounter data and provider capitation payments. Although the Plan required participating general dental offices to submit encounter data, it had been unsuccessful in obtaining compliance. For example, encounter data for the general dental practice with the highest member enrollment (Practice #1 had 900 enrollees), which also had a long-standing cooperative relationship with the Plan, included only two oral examinations, nine x-rays and five quadrants of scaling and root

planing for the period February, 2000 through January, 2001. These findings indicate that the Plan's method of obtaining utilization data for the purpose of evaluating the provider compensation rates is ineffective. The Plan stated in the pre-survey documentation that the Plan recognized the limitations of encounter data and, in practice, relied on the provider voluntary terminations to monitor the fairness of provider compensation.

Corrective Action 4:

The Plan shall submit evidence the Plan has implemented reasonable procedures to monitor utilization and costs in order to assure that contracts with providers, including provider compensation, are fair and reasonable and adequate to maintain accessibility to a network of providers.

Plan's Compliance Effort 4:

The Plan is reviewing its Utilization Review and Encounter data collection processes to improve their usefulness in assuring that contracts with providers, including provider compensation, are fair and accurate. The Plan intends to solicit input from members of its Peer Review Committee as well as a random sampling of providers, active and recently terminated, in order to design a system that would be useful to both the Plan and the Providers, which will then be filed as a Plan amendment with the Department by March 31, 2002.

Department's Finding Concerning Plan's Compliance Effort 4:

The Plan's proposed CAP will take longer than 45 days to implement. The Plan's proposal to research this problem and design a system to monitor utilization appears appropriate and reasonable within the six-month time period for this process to be completed. The Department will review the monitoring system at the 18-month Follow-Up Review.

B. Quality Assurance

Deficiency 5: The Plan's quality assurance program did not ensure the consistent identification and correction of quality of care issues at the Plan's general dental offices.

Section 1370 requires, in part, that every plan shall establish procedures in accordance with department regulations for continuously reviewing the quality of care, performance of medical personnel, utilization of services and facilities, and costs.

Rule 1300.70 (a) (1) requires, in part, that the QA program must be directed by providers and must document that the quality of care provided is being reviewed, that problems are being identified, that effective action is taken to improve care where deficiencies are identified, and that follow-up is planned where indicated.

Rule 1300.70 (b) (1) (A) and (B) requires, in part, that each plan's quality assurance program be designed to ensure that: (i) a level of care which meets professionally recognized standards of practice is being delivered to all enrollees; (ii) quality of care problems are identified and corrected for all provider entities.

a. The Plan's selection of patient charts to audit failed to provide a comprehensive sample to adequately evaluate the quality of care.

The Department found that the sample of patient charts selected by the Plan for audit of its general dental staff model practices did not consistently provide a sufficient length of time and range of services for the Plan to adequately evaluate the dental treatment provided by that dentist. The Plan's Dental Director conducted all office audits. The Department reviewed Plan audits of two general dental practices, Practice #1 which was within the first to tenth percentile of Plan member enrollment and Practice #2 which was within the twenty-fifth to fiftieth percentile of Plan member enrollment.

The patient sample selected by the Plan in Practice #2 did not provide a sufficient length of time and range of services. Two patients had only one visit and had transferred to another office more than one year prior to the Plan audit date (case #2 and 3). One patient (case #1) had two visits, an emergency visit and an examination/prophylaxis visit. After the second visit the patient was dissatisfied with the care, filed a complaint with the Plan, and transferred to another dental office. Patient #4 had two visits and received an exam, one filling, a prophylaxis and tooth whitening. Although the initial care had been completed six months prior to the Plan's audit, the patient had not returned for a maintenance visit, there were no postoperative radiographs and no evaluation of the tooth whitening results. Therefore, the Plan's auditor could not evaluate the quality of services provided. Patient #5 had two visits and received only tooth whitening. The patient did not return for planned treatment.

b. The Plan's audits of its general dental practices failed to detect deficiencies in the quality of care.

The Department reviewed the same records that were used by the Plan in its most recent audit of two practices. The purpose of this was to determine if the Plan's audits were consistently detecting deficiencies. Ten records from Practice #1 and five records from Practice #2 were evaluated by the Plan. These records were provided to the Department for its review.

The following are instances in which the Plan found the quality of care to be acceptable or not applicable whereas the Department found the care below professionally recognized standards of practice.

Practice #1

41 Individual radiographs did not meet technical quality of care standards in three of ten cases. (Case #1, 3 and 7).

42 Existing conditions were not documented in six of the ten charts (Case #1, 2, 4, 7, 8 and 9) and in three of these cases (Case #1, 4 and 9) existing pathological conditions were not diagnosed and corrections were not included in the treatment plan.

Practice #2

41 The quality of radiographs did not meet professional standards of care in four out of five cases. (Case #1, 2, 3 and 5) Although the Plan's audit summary identified poor

quality of radiographs, the evaluation of individual cases in the audit report failed to consistently identify poor quality of radiographs.

42 The practice did not follow-up with the patient when the patient missed appointments in three cases (Case #3, 4, and 7) where necessary treatment was not completed.

c. The Plan's communication with its providers did not accurately reflect the findings of the Plan auditor.

The Plan's report of their audit of Practice #1 did not accurately reflect the findings of the Plan auditor. The Plan's letter to the dentist congratulated the practice for a finding of no deficiencies. The audit of ten patient charts conducted by the Plan auditor found two deficiencies. Existing restorations were not recorded in five of the ten cases and oral hygiene instruction was not documented in four of the ten cases. Neither of these deficiencies were reported to the practice. Consequently, the practice was not asked to take any action to correct these deficiencies.

Corrective Action 5:

a. The Plan shall revise its provider audit process to ensure that a significant sampling of patient charts is representative of the full range of dental diagnosis, treatment planning and the provision of dental services.

b. The Plan shall submit a revised audit tool which addresses and identifies dental Quality of Care issues and the timetable when compliance will be achieved as well as details regarding the implementation of appropriate notification, follow-up measures and sanctions taken against providers that do not meet audit standards. The CAP shall include timeframes for all activities.

Plan's Compliance Effort 5:

a. The Plan will adopt processes to provide that a better sample of dental charts are reviewed during each Provider Quality Assurance Audit to be representative of the full range of dental diagnosis, treatment planning and dental services that Providers perform for Plan Members. The Plan will require that the Provider produce charts for not fewer than ten (10) Plan Members identified by the Plan. The Plan will select the charts to be reviewed from its list of Plan Members served by that Provider, based on a variety of factors selected to produce a valid sample of the services that dentist provides. Some of the factors used include the following elements that the Plan believes are indicative of whether the dentist is providing services of appropriate quality:

- Members who have been under the care of the Provider for a period of not less than six months;
- Members who have filed grievances with the Plan concerning the Provider; and
- Members who have utilized the specialty referral benefit of the Plan.

In the past, many of the Plan's offices had less than 10 plan members and the Plan was only able to review those charts.

b. The last Quality Assurance Audits performed by the Plan, on the two offices selected by the Department's audit team, were recorded using the Plan's prior audit tool. The Plan revised the audit tool and filed this with the Department on March 8, 2000. The Plan has included a copy of this audit tool to demonstrate that the suggestions made in this report were already incorporated into the audit tool the Plan has been using since April 2000. As noted in this audit tool, the office will have points deducted from their overall audit score for not fulfilling the requirements of this section.

c. The Plan has enhanced the letter sent to the providers to specifically identify the areas of deficiency with a timeline to correct the deficiency. The letter is sent to the Provider with a copy of the completed audit and the deficiencies are listed in the letter. The Provider is required to acknowledge the deficiencies and agree to corrective action and timeline. The two audits reviewed by the Department were under the prior program which did not include this letter. The Plan provided a sample of this letter.

Department's Finding Concerning Plan's Compliance Effort 5:

The Plan's proposed CAP is not adequate to remedy the deficiency. (a) The Plan states that it will adopt processes to assure an adequate sample for office audits and describes an acceptable method of chart selection, however, the Plan did not designate a timeline for implementation of these changes nor did the Plan submit any documents to show that the method described has been incorporated into the Plan's policies, procedures or quality assurance plan. (b) The Department acknowledges the Plan's response that the audit instrument in use at the time of the Department's survey incorporated a method to evaluate the items cited in the Preliminary Report. However, the Corrective Action necessary to remedy this portion of the Deficiency has not been met. The Corrective Action relative to Deficiency 5(b) is modified as follows: The Plan shall submit details regarding the implementation of appropriate notification, follow-up measures and sanctions taken against providers that do not meet audit standards. The CAP shall include timeframes for all activities. (c) The Department found that the Plan's letter to the office reporting the deficiencies found did not accurately reflect the deficiencies recorded on the audit form. The Plan did not submit a CAP that specifies how the Plan's process of generating the letter to the office will assure that the letter accurately reflects the audit findings.

The Department will conduct a Follow-Up Review within 18 months of the date of the Final Report to determine whether the deficiency identified by the Department has been corrected.

Deficiency 6: The Plan's quality assurance program did not ensure the consistent identification and correction of quality of care issues at the Plan's orthodontic offices.

Section 1370, Rule 1300.70 (a) (1), and Rule 1300.70 (b) (1) (A) and (B), stated above.

a. The Plan's method of selecting patient charts for audits of its orthodontic offices was not adequate.

The Department found that the Plan's method of selecting practices and charts to audit did not result in sufficient data to monitor the quality of care provided to Plan members.

The orthodontic practice being audited selected the patient records to be used by the Plan's auditor. Allowing the practice to select cases for review would enable it to bias the sample by not including records of patients who are known by the practice to be have received substandard or questionable care.

Further, the Department found that the Plan used records of patients not enrolled in the Plan to evaluate the care provided to Plan enrollees. The Plan did not know the members who received care in the orthodontic practices and therefore could not identify practices that required an audit and could not provide the auditor or the orthodontic office with a listing of its Plan members enrolled at that office. The Plan, in its review of the orthodontic audit results, did not check whether or not any records selected for audit were those of Plan members. The Plan stated that it allowed the use of non-Plan members in their orthodontic audits for the purpose of comparing the care of Plan members to that of non-members. The Department found no evidence that the Plan did this type of comparison evaluation. Furthermore, the Plan could not have done the evaluation described because the Plan did not know which of the cases audited were Plan members and which were not. The Department finds that the Plan cannot use the care provided to individuals who are not enrolled in the Plan to determine the quality of care provided to Plan members.

b. The Plan's audits of its orthodontic practices failed to detect deficiencies in the quality of care.

In order to evaluate the Plan's orthodontic quality assurance program, the Department reviewed twelve records of Plan members. Those records were taken from five practices where some of the records included in the Plan's audits were individuals who were enrolled in the Plan. The Department found that the Plan's orthodontic auditors did not evaluate the outcome of the orthodontic treatment provided. Additionally, the Department found the following deficiencies that were not identified by the Plan auditor:

Practice #3

41 Ongoing hygiene monitoring and documentation was not found (cases #1, 2, 3, and 4).

42 Study models were not extended to demonstrate hard and soft tissue supporting structures (cases #1, 2, and 4).

43 Diagnosis and treatment plans were either not found (case #3) or were not sufficiently detailed to meet professionally recognized standards of care (cases #1, 2, and 4).

44 Lack of access in that the three patients who required fixed orthodontic appliances waited four months (case #1), five months (case #2), and sixteen months (case #4) to initiate orthodontic treatment.

Practice #4

41 Evidence of soft tissue examination and cancer screening was not found (cases #1, 2, and 3).

42 Informed consent form was not signed by the provider (cases #1, 2, and 3).

43 Ongoing hygiene documentation was not found (cases #1, 2, and 3).

44 Diagnosis and treatment plans were not detailed or sequenced (cases #1, 2, and 3).

45 Case #3 was under treatment for more than forty months. The initial study models were not trimmed to reflect his Class III problem.

Practice #5

41 Diagnosis and treatment plan were not detailed or sequenced (case #1).

Practice #6

42 The Department could not properly evaluate the Plan auditor's report because the following essential items were missing from the records supplied by the Plan: dental examination, informed consent forms, diagnosis and treatment plan, and treatment chart (cases #1 and 2).

Practice #7

43 Soft tissue cancer screening, dental evaluations, and periodontal evaluations were not found (casse #1 and 2).

44 There was a lack of continuity of care in that there was inadequate follow up on missed appointments and documentation of early termination of treatment (case #2). The patient was not seen for ten months and there was no evidence that an attempt was made to contact the patient during this period.

Corrective Action 6:

a. The Plan shall submit revisions to its specialty care audit policies and procedures so that its methods of chart selection for the purpose of quality of care audits provides a sufficient number of member records to monitor quality of care delivered to individuals enrolled in the Plan.

b. The Plan's submission shall describe the specific measures the Plan shall take to improve the accuracy of the Plan's audits and assure its auditors evaluate overall care and correctly identify significant quality deficiencies in the areas where the Department found the Plan auditor had failed to identify deficiencies. The Plan's submission shall set forth a monitoring program to assure that Plan reviewers are consistently identifying quality of care deficiencies in these areas, and instituting Corrective Action Plans.

c. The Plan shall submit a CAP that eliminates the co-mingling of Plan and non-Plan enrollee charts in Plan's audit process.

Plan's Compliance Effort 6:

a. The Plan previously filed with the Department that a minimum of seven (7) charts would be reviewed from each Orthodontic Office. Due to the size of the Plan's membership many of the offices had less than seven members which resulted in the findings of the Department. The Plan now only audits charts of the Plan's members receiving treatment in the office.

b. The Plan will have the Orthodontic Reviewer review the accuracy of the Plan's orthodontic audits to evaluate the overall care and correctly identify significant quality deficiencies in the areas noted by the audits performed and as noted by the Department in their findings.

c. The Plan's auditors will no longer submit audits of non-Plan members. The Plan will review up to seven (7) Plan member charts. Their selection will be based on factors like those utilized for general dental offices. The Plan will continue to send out the Member in Treatment surveys to the Orthodontists in addition to tracking the information in the Plan's Orthodontic files.

Department's Finding Concerning Plan's Compliance Effort 6:

The Plan's CAP is not adequate to remedy the deficiency. Corrective Action 6(a) directed the Plan to submit a revision of its orthodontic audit policies and procedures that includes description of the chart selection method. The Plan failed to supply this as requested. The Plan's proposed corrective action in response to Deficiency 6(b) will take longer than 45 days to implement. Although the Plan's response to Corrective Action 6(c) indicates that the Plan's orthodontic auditors will select only charts of Plan members for audit, the Plan did not describe how the auditors would achieve this objective. Additionally, at the time of the Department's data collection for the survey, the Plan did not have adequate information about utilization of the orthodontic benefit to produce an accurate listing of patients in care at specific orthodontic offices. Should the Plan continue to follow this same process in reference to monitoring the utilization of orthodontic services, it will still not have adequate information about its own Plan members to be able to select only Plan member charts for audit.

The Department will conduct a Follow-Up Review within 18 months of the date of the Final Report to determine whether the deficiency identified by the Department has been corrected.

Deficiency 7: The Plan's quality assurance program did not demonstrate adequate evidence of credentialing and recredentialing of providers.

Section 1367(d) requires all personnel employed by or under contract to the plan shall be licensed or certified by their respective board or agency, where licensure or certification is required by law.

The Department reviewed credentialing files of the dentists who treated members in the two general dental and three orthodontic offices for which the Department conducted chart review. The Department also reviewed a random selection of credentialing files of ten Plan providers.

Proof of expiration date of the Dental Board of California licenses for two orthodontic providers (Practice #8 and 9) was printed out the first day of the on-site survey, April 16, 2001. The information in the file before that date was not current. For the third orthodontic provider (Practice #5), there were copies of a commencement announcement and the cover of an alumni association member directory

(not the actual directory listing with the provider's name). There was no other evidence of completion of an education program in orthodontics.

Five of the ten provider files selected at random did not have copies of current credentials (Practice #10-14).

Corrective Action 7:

The Plan shall submit to the Department evidence that it has appropriately credentialed and recredentialed its general dental and specialty contracting providers. The Plan shall submit evidence that orthodontic services generally regarded as requiring care of a specialist are provided by educationally qualified and currently licensed orthodontists and that all general dental providers have current licensure to practice dentistry as required by law.

Plan's Compliance Effort 7:

The Plan has changed the tracking system for monitoring the credentialing and recredentialing of General Dentists and Specialists. The Plan has begun a thorough review of the contracted provider files and has been updating provider credential information. The Plan will submit a summary of activity illustrating the depth and breadth of the Quality Assurance Program in correcting this deficiency on or before December 31, 2001. The Plan's database was enhanced to list fields where the expiration dates can be listed for each provider and their associate(s). The Plan is able to generate reports that list providers that are either missing information or for whom expiration dates are within 90 days. The Plan will generate upcoming expiration notifications to maintain the data.

Department's Finding Concerning Plan's Compliance Effort 7:

The Plan's proposed CAP will take longer than 45 days to implement. The Plan has agreed to submit a report outlining their changes to the Quality Assurance Program and the status of their provider credentialing and recredentialing activities on or before December 31, 2001. The Plan shall also submit evidence of the revisions it has made to the quality assurance program (policies and procedures) and also include a detailed narrative that describes their ongoing compliance efforts and activities to remedy this deficiency as requested.

The Department will conduct a Follow-Up Review within 18 months of the date of the Final Report to determine whether the deficiency identified by the Department has been corrected.

C. Accessibility of Services

Deficiency 8: The Plan's access monitoring system is not sufficiently sensitive to detect practices that restrict access.

Section 1367(e)(1) requires, in part, that all services be readily available at reasonable times to all enrollees. To the extent feasible, the plan shall make all services readily accessible to all enrollees.

The Plan's policy is to monitor accessibility of services through a review of members' requests for transfer and utilization reports.

The data collected by the Plan with regard to member transfers and the method of analysis used by the Plan were insufficient to detect practices that restrict access. The Plan reviewed logs of requests for transfer to discover any systemic problems with regard to member transfers. No systemic problems were identified by the Plan. The Department reviewed the requests for transfer log and found that the Plan did not classify any requests for transfer because of access problems. Rather, the classification "Unhappy with office" was used as a trigger for further investigation of systemic problems. However, among the offices with the highest number of requests for transfer classified as "Unhappy with office," the proportion of assigned members requesting transfer varied widely from 1.8% to 8.0% and this variation persisted even among offices with similar enrollment. Among offices with enrollment of 200 to 300 members, requests for transfer varied from 1.9% to 4.0%.

The Plan's other method of monitoring access was via utilization reports generated from encounter data submitted by participating dental offices. As noted in Deficiency 4 above, this data is incomplete and is not reliable for the purpose of access monitoring.

Corrective Action 8:

The Plan shall submit a CAP which includes, but is not limited to, the development and implementation of procedures and timeframes to ensure that access to dental services is current and relevant to the Plan's enrollment. The Plan shall submit evidence that it is making the necessary modifications to its network of providers to address the systemic access problems identified.

Plan's Compliance Effort 8:

The Plan will immediately resume mailing Appointment Availability Quarterly Surveys to the Plan's contracted providers to detect practices that restrict access to care. The Plan provided a copy of the Appointment Availability Quarterly Survey Form which was previously filed with the Department. In addition, the Plan has added a code for "Access to Care" in the database that will enable the Plan to track the number of transfers an office has that relate to access issues, as well as the other reasons a member may request a transfer.

Department's Finding Concerning Plan's Compliance Effort 8:

The Plan's proposed CAP is not adequate to remedy this deficiency. The Plan has outlined procedures to obtain information on access to care, however, the Plan did not describe its policies regarding how this information will be used to identify providers who do not meet access standards nor how the Plan will go about correcting identified problems. The Plan failed to provide satisfactory evidence that it is making the necessary modifications to its network of providers to address the systemic access problems identified.

The Department will conduct a Follow-Up Review within 18 months of the date of the Final Report to determine whether the deficiency identified by the Department has been corrected.

D. Grievance System

Deficiency 9: The Plan did not adequately and consistently evaluate grievances.

Section 1368(a)(1) requires, in part, that the plan establish a grievance system which ensures adequate consideration of enrollee grievances.

Rule 1300.68(a) requires, in part, that every health plan establish a system pursuant to written procedures, for the receipt, handling and disposition of complaints.

The Department's review of grievances found instances where the Plan's resolution of the complaint or grievance was inappropriate because the Plan did not provide for professional review of the case and, as a result, the Plan misinterpreted the technical aspects of the member's concern. The Dental Director had delegated responsibility for the initial investigation of complaints and grievances to the member services representative, an employee with no professional dental training. The member services representative was responsible for obtaining all pertinent records required for resolution of the complaint or grievance. The opinion of the Dental Director was that the member services representative was very good at resolving grievances and complaints. The following are instances where the member's complaint or grievance was inappropriately resolved because of the Plan's lack of understanding of dental issues.

Grievance #52

The Plan determined that the member had acknowledged that poor endodontic outcome was a risk of endodontic treatment and that the patient had signed a consent form accepting that risk. Presumably, the Plan determined that the member was therefore not entitled to any reimbursement as a result of the poor quality of the endodontic treatment. The endodontic service in question had a perforated canal and an underfilled canal (radiographs from the endodontist that subsequently treated the tooth were available). Signing a consent form does not mean that an enrollee consents to care below professionally recognized standards. There was no evidence that the Dental Director had reviewed the radiographs or evaluated the quality of the endodontic service.

Grievance #24

A Plan provider initiated this case when he asked the Plan Peer Review committee to evaluate his care to determine if he was responsible for the costs for subsequent treatment needed by the member. The Plan member services representative did not obtain appropriate records to evaluate the case. As a consequence the Plan did not address the provider's question. The member was dissatisfied with the treatment provided by her assigned Plan dental office and went to an out of network dentist at her own expense for a second opinion. The original treating dentist had filled tooth #14. Based on this second opinion she transferred to a different Plan dentist who diagnosed an endodontic problem on #14, referred the member for specialty care which was approved and arranged by the Plan, and subsequently replaced the restoration. The original dentist refunded the member the co-payment for the original restoration. The member believed that the need for subsequent treatment (root canal and crown) was caused by the original dentist and requested of the original dentist a refund of the cost of the co-payment for the root canal and final crown. The Plan incorrectly assessed this problem and responded as if the member had requested a refund because of a failed root canal performed by the

first dentist. The Plan's letter to the member says "we find that [the first dentist]'s office performed the treatment within clinically accepted standards and that the root canal therapy failed, as can happen." The patient had not claimed the root canal therapy failed, the first dentist's office did not do the root canal and the Plan had approved a referral to an endodontic specialist. Furthermore, the Plan did not evaluate the quality of the root canal because they did not request records from the endodontist. The Plan did not request the records of the second out network dentist whose opinion was the basis for the member's refund request. The resolution of this complaint illustrated the Plan's misunderstanding of the inquiry and a failure to request the appropriate records with which to evaluate the question.

Grievance #44

This case is another example of the Plan's inability to interpret technical dental information. The member inquired about charges for precious metal crowns. There were two treatment plans in the member's dental chart which included crowns on teeth #2, 3, 14, 21, and a bridge from #18 to 20 replacing #19. The Plan's letter to the member said "the purpose of this letter is to confirm your inquiry on being charged the $50 fee for precious metal on crowns #18, 19 and 30." The Plan's letter to the member cited incorrect tooth numbers and referred to a pontic as a crown. This response implies that the Plan reviewed the treatment plan, but that it did not interpret the treatment plan correctly.

Grievance #25

The Plan's letter to the member verified the co-payment for posterior porcelain crowns. However, the member's chart had a treatment plan for amalgams on three posterior teeth with composite fillings as the optional treatment at UCR. The Plan's response to the member failed to evaluate the proposed treatment plan.

Grievance #28

The Plan's letter to the member was to inform the member of the co-payment for "composite amalgams." Composites and amalgams are two different filling materials. There is no "composite amalgam" and this is not the professional terminology used to describe posterior composites. The member had requested this information because he was concerned about the toxic effects of amalgam and wanted the option of composite filling material. The Plan's response to the member would not have alleviated his concerns.

Corrective Action 9:

The Plan shall submit a CAP which includes, but is not limited to, the development and implementation of procedures and timeframes to ensure the following:

> The Plan's dental professional staff adequately and consistently investigates and follow-up potential quality of care issues, clinical criteria and systemic issues raised by individual enrollee grievances, including review of all relevant clinical records, to ensure optimal treatment outcomes for patients. The Plan's CAP shall address the roles of all Plan-designated dental professionals involved in these processes, including the Dental Director, the Plan's orthodontic consultant or auditor, and all Quality Assurance (QA) and Peer Review committees responsible for dental professional review and decision-making.

Plan's Compliance Effort 9:

The Plan will submit a CAP that addresses all points raised by the Department, including but not limited to adequately and consistently investigating and following-up on potential quality of care issues, clinical criteria and systemic issues of quality and or access issues raised be enrollee grievances, including review of all clinical records by appropriate Plan personnel. The Plan's CAP will address the roles of all Plan designated dental professionals involved in these processes, including the Dental Director, the Plan's orthodontic consultant or auditor, and all Quality Assurance (QA) and Peer Review committee members responsible for dental professional review and decision making. The Plan provided a copy of its Grievance Organization Chart

Department's Finding Concerning Plan's Compliance Effort 9:

The Plan's response states that it will submit a CAP, however, it did not specify the date by which the CAP will be submitted.

The Plan's CAP is not adequate to remedy the deficiency within 45 days. The Department will conduct a Follow-Up Review within 18 months of the date of the Final Report to determine whether the deficiency identified by the Department has been corrected.

Deficiency 10: The Plan failed to evaluate grievances, complaints and inquiries for evidence of systemic quality of care and access concerns.

Section 1368(a) and Rule 1300.68(a), stated above.

The Department reviewed the Plan's tabulated record of 40 complaints and grievances. Among these, seven included a question about overcharges for crown and bridge units. The Department evaluated the Plan's evidence of coverage and found that the schedule of co-payments and charges was misleading. The Plan allows an additional charge for posterior porcelain crowns but published the fee for a full metal crown in its schedule of co-payments. The additional charge for posterior porcelain crowns is a footnote. The seven complaints and grievances regarding this issue demonstrated that the members were confused by the Plan's presentation of the evidence of coverage, yet the Plan failed to identify this systemic problem.

Corrective Action 10:

The Plan shall submit a CAP which includes, but is not limited to, the development and implementation of procedures and timeframes to ensure that grievances which raise potential systemic quality of care issues and enrollee access concerns are addressed, that the appropriate Plan staff shall conduct adequate follow-up with contracting provider offices to determine whether such conditions are representative of systemic issues and to initiate and monitor appropriate corrective actions with such providers. Additionally, the Plan shall submit evidence that it clearly states its policies regarding co-payments for ancillary dental services such as services covering posterior porcelain crowns.

Plan's Compliance Effort 10:

The Plan believes that its undertaking of the CAP for Deficiency 9 will address Deficiency 10. Additionally, the Plan is revising its marketing and member materials to clearly state the policies regarding ancillary dental services with the stated copayment.

Department's Finding Concerning Plan's Compliance Effort 10:

The Plan states that this deficiency will be addressed and corrected in the CAP submitted in response to Deficiency 9, however, the date by which this CAP will be submitted was not specified.

The Plan's response is not adequate to remedy the deficiency within 45 days. The Department will conduct a Follow-Up Review within 18 months of the date of the Final Report to determine whether the deficiency identified by the Department has been corrected.